

MINUTE ITEM

7/12/66

53. RECONSIDERATION OF APPLICATION FOR DREDGING PERMIT, TIDE AND SUBMERGED LANDS, CORTE MADERA CREEK AND CORTE MADERA CANAL, MARIN COUNTY; MARIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT - W.O. 6036, P.R.C. ~~3485.9~~ 3486.1

During consideration of Calendar Item 53 attached, Mr. Thomas A. Hendricks, Deputy County Counsel for the County of Marin, explained that if the Marin County Flood Control and Water Conservation District is required to pay five cents per cubic yard royalty on the dredged material (which is to be placed on private land), this royalty will have to be paid not by private landowners, but by the taxpayers of the District. He therefore recommended that no charge be made by the State to the District for the fill except where the District could in turn get payment therefor from the private landowners, and indicated that there was a possibility that one landowner might be willing to pay two and one-half cents. Mr. Hendricks stated that as an alternative, the County might have to ask the State to agree to an assignment to the County of a lease held by Mr. Nels Schultz, who is paying a one-cent royalty per cubic yard for bay mud.

UPON MOTION DULY MADE AND CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE COMMISSION REAFFIRMS THE ACTION TAKEN ON APRIL 28, 1966, MINUTE ITEM 44, PAGE 12,625.

Attachment

Supplemental Calendar Item 53 (1 page)

53.

RECONSIDERATION OF APPLICATION FOR DREDGING PERMIT, TIDE AND SUBMERGED LANDS, CORTE MADERA CREEK AND CORTE MADERA CANAL, MARIN COUNTY; MARIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT - W.O. 6036.

On April 28, 1966, Minute Item 44, page 12,625, "The Commission authorized the Executive Officer to issue to the Marin County Flood Control and Water Conservation District a permit to dredge approximately 380,000 cubic yards of material from Corte Madera Creek and Corte Madera Canal, Marin County, at a royalty of \$0.05 per cubic yard for all material to be removed from State lands and deposited upon private property."

On the same date, Minute Item 43, page 12,620, "The Commission authorized the Executive Officer to issue to Marin County Flood Control and Water Conservation District, in consideration of the public protection and benefit, a forty-nine year right-of-way easement for the maintenance of a flood-control channel and protection thereof."

On June 2, 1966, a letter was received from Marin County requesting that no charge be made for the dredged material deposited on and for the benefit of private lands, as the owner of the private land consents to the deposit of, but refuses to pay for the dredge material.

Section 6303 of the Public Resources Code provides, in part: "When a contractor or permittee has a contract with or a permit from....any authorized public agency to dredge....tide or submerged lands,....creeks,....for the improvement of navigation, reclamation, or flood control, the commission may, when in the best interests of the State, allow such contractor or permittee to have sand, gravel, or other spoils dredged from the sovereign lands of the State located within the areas specified in such contract or permit upon such terms and conditions and for such consideration as will be in the best interests of the State..."

The current minimum royalty specified for dredged material deposited on private lands is \$0.05 per cubic yard. For good grade fill material, recent bids received by the Commission were \$0.16 per cubic yard. Pursuant to Division 6, Public Resources Code, royalty paid for dredged material would be deposited in the General Fund. There is a question of constitutionality if dredged material were allowed to be placed on private lands without payment of royalty. In addition, loss of revenue to the General Fund could be considered an unauthorized subvention to the Marin County Flood Control and Water Conservation District.

IT IS RECOMMENDED THAT THE COMMISSION REAFFIRM THE ACTION TAKEN ON APRIL 28, 1966, MINUTE ITEM 44, PAGE 12,625.